

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

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OLYNTHEA JOHNSON,
as Administrator of the Estate of
KENNETH JOHNSON,
Plaintiff,

v.

Civil Action No. 2:22-CV-00029

STATE OF VERMONT,
DEPARTMENT OF CORRECTIONS;
ROBERT WRIGHT;
SIRENA ZAHN;
BRIAN MERCER;
CENTURION OF VERMONT, LLC.;
STEVEN FISHER, M.D.;
DANIEL HOLLOWYA, M.D.;
MARY MARTIN;
MICHELE CARDINAL;
SABINE WATSON; and
UNKNOWN NURSES,
Defendants.

**JOINT MOTION FOR ORDER OF PRODUCTION OF CERTAIN PHONE RECORDS
PURSUANT TO CONFIDENTIALITY ORDER**

Pursuant to Fed. R. Civ. P. 26(c), Plaintiff Olynthea Johnson and Defendants State of Vermont Department of Corrections (“DOC”), Robert Wright, and Sirena Zahn hereby jointly move the Court to Order the production of phone records of former DOC inmate Robert Gadreault to Plaintiff and that such phone records be governed by the terms of the current Protective Order, Doc 66. The parties submit the following Memorandum in support thereof:

MEMORANDUM

Former DOC inmate Robert Gadreault, who was present in the infirmary with Kenneth Johnson at various times, including the night of Johnson’s death, made numerous outside phone calls. At least some of these calls were recorded by DOC. Plaintiff has requested production of these recordings. The recordings are “inmate records” governed by 28 VSA §107 which affirms

that the recordings are exempt from copying and “shall be kept confidential..” §107(b).

However, such records may be released “pursuant to a court order for good cause shown.”

§107(b)(2).

The parties agree that since Gadreault was a witness to at least some of the events occurring in the infirmary where Kenneth Johnson was housed on the night of his death, phone recordings of Gadreault’s communications with others may plausibly be relevant to the action and at least discoverable. For this reason the parties agree that there is “good cause” for their release so long as the recordings are deemed to be confidential records pursuant to the current Protective Order, Doc 66, and handled as such.

Accordingly, the above parties, by their undersigned counsel, hereby request that the Court issue an Order that good cause exists for the production of phone records of former DOC inmate Robert Gadreault to Plaintiff and that such disclosed phone records be governed by the terms of the current Protective Order, Doc 66.

RESPECTFULLY SUBMITTED,

**FOR PLAINTIFF
OLYNTHEA JOHNSON**

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Zachary Hozid, Esq.
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Dated: 23rd day of December, 2022

**FOR DEFENDANTS
VT DOC, SIRENA ZAHN,
AND ROBERT WRIGHT**

By: Andrew C. Boxer
Andrew C. Boxer, Esq.
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Dated: 23rd day of December, 2022

SO ORDERED,



12/27/22

By: Judge, US District Court for the District of Vermont